

ORDINANCE NO. 92-2003

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, AMENDING CHAPTER 62, ARTICLES I, II AND III OF THE CODE OF ORDINANCES, REGARDING HISTORIC PRESERVATION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Landmark Commission, a Commission appointed by City Council, has recommended amending Chapter 6, Articles I, II and III of the Code of Ordinances; and

WHEREAS, a Subcommittee of City Council, appointed by City Council, has recommended amending Chapter 62, Articles I, II and III of the Code of Ordinances; and

WHEREAS, the City Council has determined that the changes to Chapter 62, Articles I, II and III recommended herein are in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

SECTION 1. Chapter 62 of the Wichita Falls Code of Ordinances is hereby amended in its entirety to read as follows:

Chapter 62 – HISTORIC PRESERVATION*

ARTICLE I. IN GENERAL

Sec. 62-1. Purpose and declaration of policy.

- (a) The city council finds and declares as a matter of public policy that the protection and use of historic landmarks is a public necessity and is required in the interest of the city's economy and the education, culture and general welfare of the people.
- (b) The purposes of this chapter are to:
 - (1) Identify, provide protection for, and perpetuate historic landmarks which represent distinctive and important elements of the city's, state's and nation's past, and develop appropriate settings for them.
 - (2) Strengthen the economy of the city by stabilizing and improving property values.
 - (3) Protect and enhance the quality of neighborhoods.

- (4) Protect and enhance the city's attraction to tourists and visitors, providing stimulus to business and industry.
- (5) Conserve resources and save on construction costs.
- (6) Reinforce community identity and foster civic pride in the appearance of the city and in the accomplishments of the past.

Sec. 62-2. Compliance.

If work is performed without or contrary to this chapter, the building code administrator shall immediately stop any work. Such order shall institute immediately an appropriate action or proceeding to prevent any further unlawful action, and the unauthorized work must be corrected to meet conditions established by the landmark commission.

Sec. 62-3. Enforcement, legal procedure and penalties.

It shall be the duty of the city to enforce this chapter. Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be guilty of a class C misdemeanor offense punishable by a fine not to exceed \$500.00. The imposition of one penalty for any violation shall not excuse the violation nor permit it to continue, and each day that the violation is maintained shall constitute a separate offense. The application of such penalty shall not be held to prevent the enforced removal of prohibited conditions.

Sec. 62-4. Fees.

Fees shall be established for this chapter as provided in article VI of chapter 2 of this Code in the development fee ordinance adopted by the city council, which may from time to time adjust and revise the fees established, without amending this chapter.

Sec. 62-5. Designated landmarks and districts.

The following are designated as city landmarks:

(1) A historic district, to be known as the Depot Square Historic District, is hereby established, to consist of the following area:

Beginning at a point at the southeast corner of Fifth Street and Indiana Avenue, said point also being the intersection of the east right-of-way line of Indiana Avenue and the south right-of-way line of Fifth Street;

Thence southerly along the east right-of-way line of Indiana Avenue to the southwest corner of Lot 11, Block 139, original townsite;

Thence easterly along the south line of Lot 11, Block 139 to a point, said point being the west line of a 25-foot wide north-south alley in Block 139;

Thence southerly along the west line of said alley, crossing Sixth Street and continuing in Block 152 to a point, said point being the southeast corner of Lot 10, Block 152;

Thence westerly along the south line of Lot 10, Block 152 to a point of intersection with the east right-of-way line of Indiana Avenue;

Thence southerly along said line crossing Seventh Street to a point of intersection with the south right-of-way line of Seventh Street, said point also being the northwest corner of Lot 14, Block 163;

Thence easterly 75 feet along the north lot line of Lot 14 to a point in the north lot line of Lot 14, Block 163;

Thence southerly 100 feet to a point in the south line of Lot 13, Block 163, said point being 75 feet east of the southwest corner of said lot;

Thence easterly 75 feet to a point in the west line of a 25-foot alley;

Thence southerly along said line, crossing Eighth Street into Block 176 to a point, said point being the southeast corner of Lot 12, Block 176;

Thence easterly to a point of intersection with the east right-of-way line of Ohio Avenue, said point also being the southeast corner of Lot 3, Block 176;

Thence northerly 50 feet to the southeast corner of Lot 2, Block 176;

Thence easterly across Ohio Avenue to the southwest corner of Lot 13, Block 177;

Thence easterly along the south line of Lot 13, Block 177, to a point, said point being the west line of LaSalle Street, a 25-foot wide north-south alley in Block 177;

Thence southerly along the west line of LaSalle Street, crossing Ninth Street and continuing in Block 181 to a point, said point being 25 feet south of the southwest corner of Lot 3, Block 181;

Thence easterly 150 feet to a point, said point being 25 feet south of the southeast corner of Lot 3, Block 181;

Thence northerly 175 feet to the northeast corner of Block 181;

Thence northerly across Ninth Street to the southeast corner of Block 177;

Thence northerly along the east line of Block 177, across Eighth Street to the southeast corner of Block 162;

Thence northerly along the east line of Block 162, across Seventh Street to a point of intersection with the west right-of-way line of the M.K. & T. Railroad;

Thence northerly along said right-of-way line to a point of intersection with the south right-of-way line of Fifth Street closed by Ordinance 140;

Thence westerly along the south line of Fifth Street, crossing Ohio Avenue to the place of beginning.

In addition, the Depot Square Historic District shall include any structure walls abutting the alley on Lots 8 through 12, Block 163, abutting Seventh Street on Lot 14, Block 163, and abutting the alley on Lots 12 through 14, Block 176 (Ord. No. 38-00; 4-18-00), and abutting the alley (LaSalle Street) on Lots 8 through 12, Block 177 and North 1/2 Lot 8A, Block 181.

(2) Memorial Auditorium at 1300 7th Street, further described as Lots 1 and 2, Block 238, original townsite.

(3) Kell House at 900 Bluff, further described as Lot 1 and the north 70.67 feet of Lot 2, Block 235, original townsite.

(4) First United Methodist Church at 909 10th Street, further described as Lots 8, 9 and 10, Block 192, original townsite.

(5) The Woman's Forum of Wichita Falls, Inc. at 2120 Speedway Avenue, further described as Lot 9, Block 12, Country Club Estates Addition.

(6) The Episcopal Church of the Good Shepherd at 1109 Tenth Street, further described as Lot 7A, Block 190, original townsite.

(7) The Hardy-Chambers House at 1100 Travis Street, further described as Lots 1 & 2, Block 202, original townsite.

(8) The Hardin Administration Building of Midwestern State University at 3400 Taft Boulevard.

(9) Dr. Fanous' office at 1411 9th Street.

(10) The Berry Brown House at 1400 Travis Avenue.

(11) The Hamilton House at 1106 Brook Avenue.

(12) The Weeks-Estes House at #1 Crestway.

(13) The Lillis Morgan House at 1808 Elizabeth Avenue, Wichita Falls, Texas.

(14) The Kell Field Air Terminal located at Sheppard Air Force Base.

(15) The Kemp Wholesale Grocery (currently Big C Appliance) at 500 Eighth St., Wichita Falls, Texas.

(16) The Kemp Public Library at 1300 Lamar Street, Wichita Falls, Texas.

(17) The Elks Home at 1005 Ninth Street, Wichita Falls, Texas, further described as Lots 1, 2 and parts of 3 and 4, Block 186, original townsite.

(18) The Central YMCA at 1010 Ninth Street, Wichita Falls, Texas, further described as Lots 8, 9 and 10, Block 172, original townsite.

(19) The Kemp/Kell Depot at 503 Eighth Street, Wichita Falls, Texas, further described as Lots 1 and 2, Block 177, original townsite.

(20) The building location at 616 Seventh Street, Wichita Falls, Texas, further known as Lot 2, Jalonick Subdivision out of Lots 8 and 9, Block 152, original townsite, and formerly known as Toodles.

(21) The building located at 900 Eighth Street, Wichita Falls, Texas, further known as Lots 6 and 7, Block 166, original townsite, and commonly known as the Hamilton Building.

(22) The building located at 701 LaSalle Street, Wichita Falls, Texas, further known as Lot 1, Block 162, original townsite, and commonly known as the Littlest Skyscraper.

(23) The Graham B. Purcell Building/Federal Post Office at 1000 Lamar Street, Wichita Falls, Texas, further known as Lots 1 through 5, Block 192, original townsite.

(24) The Cline-Bridwell Mansion, a residence located at 3100 Hamilton Boulevard, Wichita Falls, Texas, further known as Lots 1 and 2, Block 6, Country Club Estates Addition, and commonly known as the White House.

(25) The John F. O'Donohoe/Anderson Bean Site, located at 615 8th Street, Wichita Falls, Texas, further known as Lot 13 (east 25 ft. x 60 ft.) and Lot 14 (east 50 ft. x 60 ft.), Block 176, original townsite, and commonly known as The Iron Horse Pub.

Sec. 62-6. Appeal.

Any person who is aggrieved by a ruling or action of the landmark commission under this chapter may, within 30 days after the ruling, appeal to the city council by filing written notice with the city clerk.

Sec. 62-7. Application for and review of exterior alterations to landmarks.

- (a) Application to the landmark commission shall be made prior to any major alteration to the exterior of any part of a landmark or prior to any new construction, reconstruction, demolition, removal, or relocation, except routine maintenance of any site within a designated historic district. This section shall not apply to the demolition of a building or structure as ordered by the City Council, as authorized by Chapter 22, Article VIII of the Code of Ordinances.

- (b) Minor design alterations/elements can be implemented after an administrative review is authorized by the Historic Preservation Officer (City Planning Division) and with the issue of a certificate of appropriateness and obtaining the necessary zoning and building permit/clearances. Minor design alterations/elements include: awnings/shutters/light fixtures; exterior accessibility ramps; outdoor storage; signage; utility servicing equipment, and all other types of work indicated in the *Wichita Falls Design Review Guidelines* requiring administrative review.
- (c) An application for demolition, removal, or relocation must be accompanied by an application to remove the designation as a landmark.

A major improvement shall include improvements or alterations identified as major in the *Wichita Falls Design Review Guidelines* or other similar types of work considered as a major work or improvement by the Historic Preservation Officer.

A completed design review application for any major improvement, new construction, or demolition shall be reviewed at a public hearing by the Landmark Commission. The Landmark Commission shall conduct the public hearing during a regularly scheduled meeting within 30 days following receipt of a completed application by the Historic Preservation Officer. The Commission will consider all applicable design guidelines and render a decision for approval, conditional approval, or disapproval within 45 days of the public hearing date, unless otherwise agreed by the Historic Preservation Officer and the applicant.

- (d) If no decision is rendered by the landmark commission on a major design review application within 75 days of receipt of a complete application, approval shall be deemed granted, and a building permit, if required, may be issued with verification of application submittal.
- (e) Any approved design review application issued a Certificate of Appropriateness shall expire within 12 months from the date of issuance if the work authorized is not commenced within this time period. The landmark commission may, however, renew an approval if application is made within 30 days of its expiration.
- (f) Landmarks must be maintained to ensure their structural soundness and to ensure their exterior preservation. Ordinary repair and maintenance is exempt from design review by the landmark commission and this section, as are emergency measures authorized by the building inspection division to protect the health, safety, and public welfare. The term "ordinary repair and maintenance" is defined as any work for which a building permit is not required, where the purpose of the work is to correct any damage or deterioration, and where such work will not noticeably change the exterior appearance of any part of the landmark.
- (g) An application shall be considered submitted when the landmark commission begins deliberations on the project. The need for additional information shall extend the application submittal period for an additional

30 days. Should the information not be forthcoming during that period, the application shall be considered null and void.

- (h) No design review application that has been deemed similar to one that has previously been denied by the Landmark Commission or City Council shall be considered or resubmitted for six months from the date of that denial. The Historic Preservation Officer is the final authority as to the determination of similarity of the design review application.

Sec. 62-8. Local historic preservation officer.

- (a) Creation. There is hereby appointed a local historic preservation officer for the city.
- (b) Appointment. The city manager shall appoint an existing, qualified city employee as the city local historic preservation officer.
- (c) Functions.
 - (1) Serve as the local preservation contact and/or liaison for the city, the community, the state historical commission, and the National Park Service.
 - (2) Submit copies of landmark commission meeting minutes and activities to the state historical commission.
 - (3) Provide resource materials and information to all landmark commission members to better assist them in their duties.

Secs. 62-9--62-35. Reserved.

ARTICLE II. LANDMARK COMMISSION*

Sec. 62-36. Created; composition; qualifications; compensation.

- (a) There is created a landmark commission composed of nine members, each of whom shall be a city resident, appointed by the city council.
- (b) Of the nine members, one shall be a licensed real estate broker or appraiser, one shall be a member of the planning and zoning commission, one shall be a member of the Wichita County Heritage Society, one shall be a member of a historic district that shall either own property or reside within a district, two shall be licensed or have expertise in the field of architecture, and three shall be members at-large. In the event that a member from a category noted above is unable to serve on the commission, city council may appoint an additional member at-large. The preservation district liaison from each district shall be considered a non-voting member of the commission.

- (c) All members should have knowledge and experience in one of the following categories: architectural, economic, cultural, archaeological, or historical development of the city which prepares them for carrying out their duties on the commission, and they shall serve without compensation.

Sec. 62-37. Terms.

Members shall serve three-year terms. Term limits shall be governed by city council policy.

Sec. 62-38. Proceedings.

The landmark commission shall meet monthly or as agenda issues require and may hold other meetings as necessary. These meetings shall be open to the public. A simple majority of the members shall constitute a quorum and at least five affirmative votes shall be necessary to carry out any action of the commission. The commission shall adopt appropriate guidelines and procedures relating to the provisions of this chapter and for the conduct of its business. There shall be a chairperson and vice-chairperson selected by the commission. The chairperson and vice-chairperson shall serve one-year terms and shall be elected at the first meeting of each calendar year. The chairperson and vice-chairperson may be reelected.

Sec. 62-39. Functions.

The landmark commission shall:

- (1) Recommend to the city council that certain districts, sites, buildings, structures, and objects be designated as landmarks.
- (2) Determine that certain districts, sites, buildings, structures, and objects are eligible for designation as landmarks pending required restoration or rehabilitation; and they shall be deemed to have "pending designation" status.
- (3) Approve, conditionally approve, or disapprove applications for alterations to the exterior of designated landmarks, to landmarks with pending designation status, and to structures located within designated historic districts, to ensure that changes are appropriate and that their historical qualities are retained.
- (4) Regularly review the status of landmarks, landmark districts, and landmarks with pending designation status and make necessary recommendations.

- (5) Recommend the amendment or removal of a designation using the same procedure as for the original designation.
- (6) Review applications and appoint, as necessary, local District Design Review Committee volunteers who both demonstrate an interest in historic preservation and shall own property within that locally designated historic district.
 - (a) District Design Review Committee appointments shall be for a term of three years. Term limits shall be governed by city council policy.
 - (b) The terms of the District Design Review Committee volunteers shall be staggered to provide continuity and maintain a commitment of basic preservation knowledge.
 - (c) District Design Review Committee volunteers shall assist the City appointed Preservation District Liaison for a specific historic district regarding both administrative review for minor design review applications and assistance for major design alterations.
 - (d) District Design Review Committee volunteers may make recommendations to the Landmark Commission regarding design review applications.
- (7) Conduct such other activities necessary to accomplish its authorized objectives and to advance the purposes of this chapter.
- (8) Any owner whose property is included in an application for historic district designation may remove his property from consideration by the Commission by filing written notice with the City Community Development Department at least one day prior to the date of the Commission meeting to hear the application. In the event the property is thereafter sold or conveyed to another party, the property shall immediately be included in the historic district and must comply with all the requirements of the district.

Secs. 62-40--62-65. Reserved.

ARTICLE III. DESIGNATION

DIVISION 1. GENERALLY

Sec. 62-66. Historic landmarks.

- (a) The city council may designate, at a public hearing, districts, sites, buildings, structures, and objects as historic landmarks. One or more of the following criteria shall be considered to make such designation, in that the district, site, building, structure or object:
 - (1) Is associated with significant historic events or development of the city or with the lives of persons or groups significant in the past.
 - (2) Embodies distinguishing characteristics of architectural style or type or craftsmanship or represents a significant innovation of method or use of materials.
 - (3) As a neighborhood, or district, represents a significant and distinguishable area.
 - (4) Possesses archaeological value or, based on evidence, can be expected to yield information important to history.
 - (5) Because of location, has become of value to a neighborhood community area, or city, or represents an aspect of community sentiment or pride.
 - (6) Is an existing or is proposed for recognition as a national historic landmark or state historic landmark, or is proposed for entry into the National Register of Historic Places.
 - (7) Possesses significance in history, architecture, archaeology, and culture.
- (b) Any owner whose property is included in an application for historic district designation may remove his property from consideration by the City Council by filing written notice with the City Community Development Department at least one day prior to the date of the City Council meeting to hear the application. In the event the property is thereafter sold or conveyed to another party, the property shall immediately be included in the historic district and must comply with all the requirements of the district.
- (c) Upon passage of a designation ordinance, the city clerk shall file a copy of the ordinance with the county clerk as part of the deed record.

Secs. 62-67--62-95. Reserved.

DIVISION 2. CRITERIA

Sec. 62-96. Scope.

To preserve the integrity of historical districts or landmarks that may be designated by the city council, the design criteria in this division shall be used to compare and evaluate individual structures presented for design review. The intent of this criteria is to ensure the preservation of the architectural and historic character of the structures located within the historic district or landmark. The criteria guidelines, section 62-97, have been adopted from the Secretary of the United States Department of the Interior's revised regulations (36 CFR 67-1983) for Standards for Rehabilitation of Historic Buildings. The criteria provide guidelines for the restoration of existing structures and ensure that new construction will blend with the existing character of the area.

Sec. 62-97. Existing structures.

Design criteria used to compare and evaluate existing structures for rehabilitation within a designated historic district or landmark include the following:

- (1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment or to use a property for its originally intended purpose.
- (2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be prohibited.
- (3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
- (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. If replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

- (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- (8) Every reasonable effort shall be made to protect and preserve archeological resources affected by or adjacent to any project.
- (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, material and character of the property, neighborhood or environment.
- (10) New additions or alterations to a structure or landmark and/or its environment are subject to review by the landmark commission, unless the essential form and integrity of the structure and/or its environment would be unimpaired by the removal of such additions or alterations at a later date.

Sec. 62-98. New construction.

Design criteria used to compare and evaluate new construction within a designated historic district or landmark include the following:

- (1) Buildings should be constructed to a height within ten percent of the average height of existing adjacent buildings.
- (2) The relationship between the width and the height of the front elevation and the width to height of windows and doors should be consistent with other buildings in the area.
- (3) Rhythm, or the ordered recurrent alteration of strong and weak elements of the masses to openings, should be considered.
- (4) Materials should be consistent with existing structures within the area in design, texture, and other visual qualities.
- (5) Architectural detail should be consistent with existing structures within the area. Detail may include the selection of cornices, arches, quoins, balustrades, wrought-iron work, chimneys or roof shape.
- (6) The selection of a particular quality and quantity of landscaping should be in continuity with the surrounding area.

Sec. 62-99. General criteria for use in designated district or landmark.

Design criteria for general use throughout a designated historic district or landmark include the following:

- (1) Signs. Criteria for signs shall be as follow:
 - a. Graphic designs or individual letters mounted or placed directly on the face of a building are generally a preferred sign type.

- b. Carefully designed signs on boards or plaques mounted flush with the side of the building are generally a preferred sign type.
 - c. There shall be simplicity and restraint in the selection of materials and lighting. Wood, wrought iron, and steel are preferable to plastics and extruded aluminum. Lighting achieved by floodlight or projected light or exposed globes is preferred to backlighting. Signs with rotating, blinking, or other features that appear to be moving are prohibited.
- (2) Sidewalks and curbs. Sidewalks and curbs, constructed with an adequate barrier-free and aesthetic manner providing an efficient and convenient system for pedestrian movement, are encouraged. Street furniture for comfort and convenience and aesthetically pleasing street hardware, including pedestrian scale lighting fixtures and intensities, are encouraged.
- (3) Parking and loading. Off-street parking and loading facilities have an efficient functional relationship to the overall circulation system. The enhancement of the aesthetic quality of off-street parking and loading facilities with unobtrusive and appropriate screening and landscaping is encouraged.

SECTION 2. Upon adoption of Chapter 62, text shown by a strikeout shall be deleted; text shown as underlined shall not be underlined except where necessary for formatting; text shown as shaded shall not be shaded; and the pages shall be renumbered.

SECTION 3. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

PASSED AND APPROVED this the 16th day of September 2003.

M A Y O R

ATTEST:

City Clerk